



UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

DAVID A. STEBBINS

PLAINTIFF

VS

CASE NO. 1:14-cv-00961

EDUCAP, INC.

DEFENDANT

MOTION FOR RECONSIDERATION

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following motion and incorporated brief in support thereof for the Court to reconsider its judgment.

1. In its memorandum opinion, this Court explained its reasoning for granting the Defendant's motion for summary judgment with the following statement:

“Plaintiff's unsupported protestations - that he never heard of Educap prior to filing this lawsuit and that the signature on the loan application is a forgery - are unpersuasive. That Plaintiff made payments on his loan prior to defaulting is fatal to his argument that the loan application produced by the Defendant was the result of foul play. In all likelihood, Plaintiff's forgery allegations are nothing more than a last-ditch effort to escape his obligations under the loan agreement.”

2. This essentially amounts to a judicial determination of credibility. It felt that Plaintiff's testimony A) that he never entered into any contract with the Defendants, B) that his signature is a forgery, and C) that he never made any payments, and that any evidence of these payments are equally forged, are simply “unpersuasive.”

3. That is a judicial weighing of the evidence, and a clear determination of credibility.

4. The law is clear on this issue: A district court, in ruling on a motion for summary judgment, may not do either of those things! “[T]he court must draw all reasonable inferences in favor of the nonmoving party, and it may not make credibility determinations or weigh the evidence.” See *Reeves v. Sanderson Plumbing Products, Inc.*, 530 US 133, 150 (2000). See also *Dennis v. Columbia Colleton Medical Center, Inc.*, 290 F. 3d 639, 645 (4th Cir. 2000).

5. The Court would have the authority to issue the opinions it has ... if it were issuing a verdict after a bench trial! This, however, was a motion for summary judgment!

6. Plaintiff mentioned this counter-argument against the Motion for Summary Judgment (Doc. 35, ¶ 2). However, this Court, in its memorandum opinion, completely ignored the case law citations.

7. The Court's actions on this matter effectively amount to a judicial usurpation of the jury's function. The Court has a duty to correct its errors.

8. Wherefore, premises considered, Plaintiff requests that the motion for reconsideration be granted. So requested on this, the 7th day of January, 2015.

A handwritten signature in black ink, appearing to read 'David Stebbins', is written over a horizontal line.

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